

SENATE BILL No. 144

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3; IC 9-13-2; IC 9-26; IC 34-30-2-31.5.

Synopsis: Access to juvenile information in police records. Provides that the address and telephone number of a minor in a law enforcement record, an investigatory record, a daily log, or a record of arrest or summons may not be disclosed. Provides that a minor's address and telephone number contained in a motor vehicle accident report are confidential and may be released only to certain persons. Makes disclosure of this information a Class A misdemeanor. Provides that a person who obtains or attempts to obtain this information when the person knows that the person is not entitled to receive the information commits a Class A misdemeanor. Provides that the state police department may not disclose a minor's address and telephone number contained in an accident report of the department.

Effective: July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 144

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-3-2, AS AMENDED BY P.L.2-2005,
2 SECTION 16, AND AS AMENDED BY P.L.170-2005, SECTION 17,
3 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2006]: Sec. 2. ~~As used in~~ (a) *The definitions set*
5 *forth in this section apply throughout* this chapter.
6 (b) "Copy" includes transcribing by handwriting, photocopying,
7 xerography, duplicating machine, duplicating electronically stored data
8 onto a disk, tape, drum, or any other medium of electronic data storage,
9 and reproducing by any other means.
10 (c) "Direct cost" means one hundred five percent (105%) of the sum
11 of the cost of:
12 (1) the initial development of a program, if any;
13 (2) the labor required to retrieve electronically stored data; and
14 (3) any medium used for electronic output;
15 for providing a duplicate of electronically stored data onto a disk, tape,
16 drum, or other medium of electronic data retrieval under section 8(g)
17 of this chapter, or for reprogramming a computer system under section

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6(c) of this chapter.

(d) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(e) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(f) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(g) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(h) "Investigatory record" means information compiled in the course of the investigation of a crime.

(i) "Minor" means a person who is less than eighteen (18) years of age.

~~(j)~~ (j) "Patient" has the meaning set out in IC 16-18-2-272(d).

~~(k)~~ (k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

~~(l)~~ (l) "Provider" has the meaning set out in IC 16-18-2-295(a) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

~~(m)~~ (m) "Public agency" means the following:

(1) Any board, commission, department, division, bureau,

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committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, *gaming agents of the Indiana gaming commission*, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission *established by IC 4-30-3-1*, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

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~~(m)~~ (n) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

~~(n)~~ (o) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

~~(o)~~ (p) "Trade secret" has the meaning set forth in IC 24-2-3-2.

~~(p)~~ (q) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. ~~and~~ The term includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 2. IC 5-14-3-4, AS AMENDED BY P.L.210-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and

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- 1 (B) received from another party involved in the research.
- 2 (7) Grade transcripts and license examination scores obtained as
- 3 part of a licensure process.
- 4 (8) Those declared confidential by or under rules adopted by the
- 5 supreme court of Indiana.
- 6 (9) Patient medical records and charts created by a provider,
- 7 unless the patient gives written consent under IC 16-39.
- 8 (10) Application information declared confidential by the
- 9 ~~twenty-first century research and technology fund board of the~~
- 10 **Indiana economic development corporation** under ~~IC 4-4-5.1.~~
- 11 **IC 5-28-16.**
- 12 (11) A photograph, a video recording, or an audio recording of an
- 13 autopsy, except as provided in IC 36-2-14-10.
- 14 (12) A Social Security number contained in the records of a
- 15 public agency.
- 16 **(13) The address and telephone number of a minor contained**
- 17 **in records within the custody of a law enforcement agency.**
- 18 (b) Except as otherwise provided by subsection (a), the following
- 19 public records shall be excepted from section 3 of this chapter at the
- 20 discretion of a public agency:
- 21 (1) Investigatory records of law enforcement agencies. However,
- 22 certain law enforcement records must be made available for
- 23 inspection and copying as provided in section 5 of this chapter.
- 24 (2) The work product of an attorney representing, pursuant to
- 25 state employment or an appointment by a public agency:
- 26 (A) a public agency;
- 27 (B) the state; or
- 28 (C) an individual.
- 29 (3) Test questions, scoring keys, and other examination data used
- 30 in administering a licensing examination, examination for
- 31 employment, or academic examination before the examination is
- 32 given or if it is to be given again.
- 33 (4) Scores of tests if the person is identified by name and has not
- 34 consented to the release of the person's scores.
- 35 (5) The following:
- 36 (A) Records relating to negotiations between the Indiana
- 37 economic development corporation, the Indiana ~~development~~
- 38 finance authority, ~~the film commission, the Indiana business~~
- 39 ~~modernization and technology corporation~~; or economic
- 40 development commissions with industrial, research, or
- 41 commercial prospects, if the records are created while
- 42 negotiations are in progress.

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(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the Indiana ~~development~~ finance authority, ~~the Indiana film commission, the Indiana business modernization and technology corporation,~~ or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency

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or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations **that concern the driver.**

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety

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by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;
- (E) threat assessments;
- (F) domestic preparedness strategies;
- (G) the location of community drinking water wells and surface water intakes;
- (H) the emergency contact information of emergency responders and volunteers;
- (I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:
 - (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
 - (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency **that owns, occupies, leases, or maintains the airport**)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a

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reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 3. IC 5-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) **Except as provided in section 4(a)(13) of this chapter**, if a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning any charges on which the arrest or summons is based.

(3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the **following**:

(A) Time and location of the arrest or the issuance of the summons. **However, if the person who is arrested or the subject of the summons is a minor, the location may not be disclosed if the location is the person's home address.**

(B) Investigating or arresting officer (other than an undercover

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officer or agent). ~~and~~

(C) Investigating or arresting law enforcement agency.

(b) **Except as provided in section 4(a)(13) of this chapter**, if a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose order the person is being held.

(3) The time and date that the person was received and the time and date of the person's discharge or transfer.

(4) The amount of the person's bail or bond, if it has been fixed.

(c) **Except as provided in section 4(a)(13) of this chapter**, an agency shall maintain a daily log or record that lists suspected crimes, accidents, or complaints and the following information shall be made available for inspection and copying:

(1) The time, substance, and location of all complaints or requests for assistance received by the agency. **However, if the complaint or request for assistance involves a minor, the location may not be disclosed if the location is the minor's home address.**

(2) The time and nature of the agency's response to all complaints or requests for assistance.

(3) If the incident involves an alleged crime or infraction, **the following information:**

(A) The time, date, and location of occurrence. **However, if the occurrence involves a minor, the location may not be disclosed if the location is the minor's home address.**

(B) The name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4.

(C) The factual circumstances surrounding the incident. ~~and~~

(D) A general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency.

(d) This chapter does not affect IC 5-2-4, IC 10-13-3, or IC 5-11-1-9.

SECTION 4. IC 9-13-2-82.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2006]: **Sec. 82.5. "Insurer", for purposes of IC 9-26-4.5, has the meaning set forth in IC 9-26-4.5-2.**

SECTION 5. IC 9-13-2-103.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 103.1. "Minor", for purposes of IC 9-26-4.5, has the meaning set forth in IC 9-26-4.5-3.**

SECTION 6. IC 9-26-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. A report filed by a law enforcement officer under section 2 of this chapter is not a confidential record and shall be made available for inspection and copying under IC 5-14-3. However, if the report contains the address or telephone number of a person who is less than eighteen (18) years of age, IC 9-26-4.5 applies to the report.**

SECTION 7. IC 9-26-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) This section does not apply to an accident report filed by a law enforcement officer or filed by a coroner or similar officer under IC 9-26-4-2.**

(b) Except as provided in subsection (c), each required accident report and supplemental report is without prejudice to the reporting individual and is for the confidential use of the state police department or other state agencies having use of the records for accident prevention purposes.

(c) The state police department may disclose the identity of a person involved in an accident when the person's identity is not otherwise known or when the person denies being present at the accident. **However, if the person is a minor, the state police department may not disclose the address or telephone number of the minor.**

(d) A report may not be used as evidence in a trial, civil or criminal, arising out of an accident. However, the state police department shall, upon the demand of a:

- (1) person who has, or claims to have, made a report; or
- (2) court;

furnish a certificate showing that a specified accident report has or has not been made to the state police department solely to prove a compliance or a failure to comply with the requirement that a report be made to the state police department.

SECTION 8. IC 9-26-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 4.5. Confidentiality of Information Concerning Minors in Accident Reports

Sec. 1. As used in this chapter, "accident report" means a report

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or the information contained in a report of a motor vehicle accident that is forwarded or submitted to the state police department under:

- (1) IC 9-26-1-1(4);
- (2) IC 9-26-1-2(3);
- (3) IC 9-26-1-5;
- (4) IC 9-26-1-6(a);
- (5) IC 9-26-1-6(b); or
- (6) IC 9-26-2-2.

Sec. 2. As used in this chapter, "insurer" means:

- (1) an insurer;
- (2) a self-insured entity; or
- (3) an agent, an employee, or a contractor of a person described in subdivision (1) or (2).

Sec. 3. As used in this chapter, "minor" means a person who is less than eighteen (18) years of age.

Sec. 4. Except as provided in section 5 of this chapter, the:

- (1) address; and
- (2) telephone number;

of a minor contained in an accident report are confidential and may not be disclosed.

Sec. 5. (a) The information described in section 4 of this chapter may be disclosed to the following:

- (1) A party involved in the motor vehicle accident or an owner of property that was damaged during the motor vehicle accident.
- (2) A legal representative of a person described in subdivision (1).
- (3) An insurer.
- (4) A prosecutorial agency.
- (5) A state or federal agency authorized by another statute to:
 - (A) receive a copy of; or
 - (B) review;
 the accident report.

(b) If a state agency receives an accident report under subsection (a)(5), the agency may disclose the information in the accident report described in section 4 of this chapter only in accordance with subsection (a).

Sec. 6. The state police department or any state agency that receives a copy of the report under section 5(a)(5) of this chapter shall require a person who requests an accident report under section 5 of this chapter to present proper credentials identifying

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the person as a person authorized to receive the information described in section 4 of this chapter before the accident report is released to the person.

Sec. 7. (a) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency, except as provided by IC 4-15-10, who knowingly or intentionally discloses information described in section 4 of this chapter in violation of this chapter commits a Class A misdemeanor.

(b) A public employee may be disciplined in accordance with the personnel policies of the agency in which the employee is employed if the employee intentionally, knowingly, or recklessly discloses or fails to protect the information described in section 4 of this chapter in violation of this chapter.

Sec. 8. A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency who:

(1) unintentionally and unknowingly discloses the confidential information described in section 4 of this chapter in violation of this chapter in response to a request for an accident report under this chapter; or

(2) discloses confidential information described in section 4 of this chapter in violation of this chapter in reliance on an advisory opinion by the public access counselor;

is immune from civil and criminal liability for the disclosure.

Sec. 9. A person who, knowing that the person is not entitled to information in an accident report classified as confidential under this chapter, obtains or attempts to obtain the information in the accident report commits a Class A misdemeanor.

SECTION 9. IC 34-30-2-31.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31.5. IC 9-26-4.5-8 (Concerning public officers or employees and officers or employees of contractors disclosing confidential information relating to a motor vehicle accident).

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